



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

BRUCE E. BABBITT
ATTORNEY GENERAL

Ied Wright

October 17, 1977

The Honorable Carl J. Kunasek
Representative, District 30
House of Representatives
Phoenix, Arizona 85007

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Re: 77-189 (R77-257)

Dear Representative Kunasek:

Your memorandum of August 8, 1977 requested our opinion concerning the qualifications of an individual who has been appointed by the Governor to the Mobile Home Industry Regulating Board.

The qualifications of the members are set forth by statute A.R.S. § 32-1171.04 and provides:

There is established a state board of mobile and manufactured housing standards. The board shall consist of five members including the registrar of contractors, the director and three members appointed by the governor pursuant to § 38-211. Of the members appointed by the governor one shall represent the mobile and manufactured housing industry, one shall represent financial institutions, and a member of the public who shall represent the consumers of the state. . . .

Whether or not a given nominee can be deemed to represent the mobile and manufactured housing industry, financial institutions, or consumers is ultimately a question of fact. In some cases, the facts are sufficiently clear that this office can, as a matter of law, conclude that a statutory qualification has not been met.

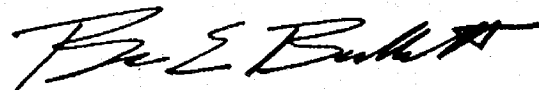
It should further be noted that there is a presumption in favor of the eligibility of a person who has been appointed to public office, and the statutory qualifications will be liberally construed to support the appointment. McCarthy v. State, 101 P.2d 449, 451, 55 Ariz. 328 (1940); Shirley v. Superior Court In and For County of Apache, 513 P.2d 939, 944, 109 Ariz. 510 (1973). See Atty.Gen.Op. No. 75-210.

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Our preliminary assessment of this case would indicate that whether the individual can be deemed to represent the mobile and manufactured housing industry is not clear.

In such circumstances, it would appear more appropriate for the Senate to make that judgment as a part of its confirmation proceedings under A.R.S. § 38-211.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce E. Babbitt", with a stylized flourish at the end.

BRUCE E. BABBITT
Attorney General

BEB:jrs

Enclosure